

### **AMENDMENTS TO THE DRAWINGS**

New drawing FIG. 6 is hereby added. New FIG. 6 depicts a plastic container including undulations having linear sides and a substantially triangular shape as recited in claim 5. No new matter is added.

Attachments: 1 new drawing sheet labeled "New Sheet"

## **REMARKS**

### **I. Introduction**

Claims 1-28 are pending. By this amendment, claims 1, 7, 8, 10, 11, 16, 17, 19-21, 25 and 26 are amended to more particularly recite the features of the invention. In view of the foregoing amendments and following remarks, Applicant respectfully submits that claims 1-28 are in condition for allowance. A notice indicating the same is respectfully requested.

### **II. Drawings**

In the Office Action dated July 6, 2005, the drawings are objected to under 37 C.F.R. § 1.83(a), for failing to show every feature of the invention specified in the claims. By this amendment, FIG. 6 is added to show the undulations having linear sides and a substantially triangular shape. Accordingly, Applicant respectfully requests that the objection be withdrawn. Reconsideration is respectfully requested.

### **III. Specification**

By this Amendment, Applicant also amends the specification. Specifically, paragraphs 0004, 0005, 0007, 0010, and 0027 are amended to correct minor grammatical and typographical errors. Paragraph 0025 is amended to reference FIG. 6. Furthermore, a brief description of FIG. 6 is added following paragraph 0017. No new matter is added.

### **IV. Rejections under 35 U.S.C. § 112, second paragraph**

At page 4 of the Office Action, claims 19-23 and 25-28 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly and distinctly claim the subject matter of the invention. By this Amendment, claims 19-21, 25, and 26 have been amended to correct the antecedent basis issues pointed out by the Examiner. Specifically, each of the foregoing claims is amended to recite “said container sidewall portion”. Applicant respectfully submits that the rejection has been overcome.

## V. Rejections under 35 U.S.C. § 102(b)

In the Office Action, claims 1, 2, 5, 6, 8, 10, and 13-16 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,124,638 to Sheldon et al (“Sheldon”). Independent claims 1 and 10 are amended to more particularly recite the features of the present invention. Therefore, in view of the foregoing amendments and following remarks, Applicant respectfully submits that at least claims 1-24 are in condition for allowance.

Amended claims 1 and 10 of the present application recite “the flange including undulations on a top surface, the undulations extending radially outward from said upper sidewall.” Thus, the claims require that the undulations be on the top surface of the flange, and further require that the undulations extend radially outward *from* the upper sidewall (emphasis added). Paragraph 0022 of the disclosure, for example, provides:

In order to strengthen the neck portion 108 of a container, the present invention provides that *the top surface of the flange 214 be formed in a manner to create a series of peaks 202 and valleys 204 resulting in undulations 222 disposed around an outer circumference of the upper sidewall 212 of the neck portion 108 on the flange 214*. The undulations 222 are formed of the same material as the remainder of the container 100 during the container forming process. The undulations 222 aid in the prevention of deflection of the components of the neck portion 108 during capping operations or when other top load pressure is applied. (emphasis added).

The recited structure of the undulations in relation to the flange and the upper sidewall provides the necessary strength to prevent deflection of the neck portion during capping operations or when other top loads are applied to the container.

Conversely, Sheldon shows and discloses a bottle neck 3 provided with exterior screw thread 5, a smooth portion 12, and a ledge 6 having, in one embodiment (FIG. 7), conical recesses 7' on the exterior surface of the bottle neck 3 (*see* column 4, lines 25-32). Sheldon teaches the foregoing structure for purposes of tamper-proofing the bottle closure. As set forth above, amended claims 1 and 10 require that the undulations be on the top surface of the flange, and further require that the undulations extend radially outward *from the upper sidewall*. As shown in FIG. 7, however, Sheldon teaches recesses 7' extending outwardly beginning at a point

lying a significant radial distance from the smooth portion 12 across ledge 6 (i.e., the recesses 7' do not extend radially outward *from* the smooth portion 12).

Accordingly, Sheldon fails to teach each and every feature of the claimed invention. For at least the foregoing reasons, claims 1 and 10 are submitted as being allowable. None of the cited prior art references are believed to remedy the deficiencies in Sheldon. Claims 2-9 and 11-24 depend from claims 1 and 10, respectively, and are submitted as being allowable over Sheldon for at least the same reasons.

In the Office Action, claims 1-4, 6-8, 10-12, 14-17, and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,105,800 to Czesak. Independent claims 1 and 10 are amended to more particularly recite the features of the present invention. Therefore, in view of the foregoing amendments and following remarks, Applicant respectfully submits that at least claims 1-24 are in condition for allowance.

Amended independent claims 1 and 10 of the present application recite “a *circumferential* upper sidewall connected to said finish at an end opposite said opening.” As noted above, the undulations on the top surface of the flange extend radially outward from the upper sidewall to provide top loading strength to the container neck. The upper sidewall of the present invention is recited as being a “circumferential” surface connected to the finish. The term circumferential denotes a round or circular surface.

On the other hand, Czesak shows and discloses a container finish 36 having integrally blow molded reinforcing means thereon (*see* column 2 lines 64-65). The reinforcing means may be, for example, in the form of circumferentially spaced blow molded axial columns 44 which extend radially outwardly between the lowermost portion of threads 38 and ledge 40 (FIGS. 1-3; column 2 line 65 – column 3, line 3). The Office Action refers to ledge 40 as being the recited flange and further refers to blow molded axial columns 44 as defining undulations on the upper surface of ledge 40. Due to the presence of blow molded axial columns 44, however, the outer periphery of the finish above ledge 40 does not have a “circumferential” upper sidewall as required by claims 1 and 10, as amended.

Accordingly, Czesak fails to teach each and every feature of the claimed invention. For at

least the foregoing reasons, claims 1 and 10 are submitted as being allowable. None of the cited prior art references are believed to remedy the deficiencies in Czesak. Claims 2-9 and 11-24 depend from claims 1 and 10, respectively, and are submitted as being allowable over Czesak for at least the same reasons.

Claims 7 and 17, which depends from claims 1 and 10, respectively, additionally recite that "said flange comprises a ledge extending beyond an outer periphery of said undulations." The Applicant respectfully submits that neither one of Sheldon and Czesak, as applied by the Office Action, teaches a flange including a ledge extending beyond the outer periphery of the undulations. The disclosure of the present invention suggests that such a ledge "further improves top load performance because it is less compressible than a V-shaped flange present in prior art containers" (paragraph 0024). For at least the above reasons, Applicant submits that claims 7 and 17 are allowable over either one of Czesak and Sheldon.

#### **VI. Rejections under 35 U.S.C. § 103(a)**

At page 5 of the Office Action, claims 9 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either one of Sheldon and Czesak. Independent claims 1 and 10 are amended to more particularly recite the features of the present invention and are submitted as being allowable over both Sheldon and Czesak for the reasons set forth above. Because claims 9 and 18 depend from claims 1 and 10, respectively, they are submitted to be allowable for at least the same reasons.

Also at page 5 of the Office Action, claims 19-23 and 25-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either one of Sheldon and Czesak in view of European Patent Document EP 0000823 to Robinson ("Robinson"). Independent claim 10 is amended to more particularly recite the features of the present invention and is submitted as being allowable over both Sheldon and Czesak for the reasons set forth above. Because claims 19-23 depend from claim 10 they are submitted to be allowable for at least the same reasons.

With regard to claims 25-28, claim 25 is hereby amended to include the features recited in claims 1 and 10. Therefore, claims 25-28 are submitted to be allowable for at least the same

reasons as claims 1 and 10.

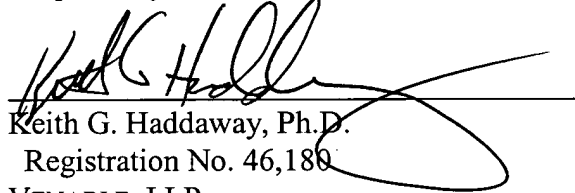
## **VII. Conclusion**

Claims 1-28 are pending in the application. The Applicant respectfully submits that claims 1-28 are in condition for allowance and requests issuance of a Notice of Allowability indicating the same. If the Examiner believes, for any reason, that a personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

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Respectfully submitted,



Keith G. Haddaway, Ph.D.

Registration No. 46,180

VENABLE LLP

P.O. Box 34385

Washington, D.C. 20043-9998

Telephone: (202) 344-4000

Telefax: (202) 344-8300

Attorney/Representative for Applicant

KGH/RMF  
DC2#693569